Attorney Docket No. 33362-8002US

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: David J. Thomsen	EXAMINER: John Sotomayor
APPLICATION NO.: 09/849,454	ART UNIT: 3714
FILED: May 4, 2001	CONF. No: 8656
FOR: SYSTEM AND METHOD FOR REMOTE LEARNING, SUCH AS FOR COSTS AND BENEFITS PERSONNEL AND PROFESSIONALS	

Declaration of David J. Thomsen Under 37 C.F.R. § 1.131

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Assistant Commissioner:

I, David J. Thomsen, declare and state that:

1.   I am a sole inventor of the invention described and claimed in U.S. Patent Application No. 09/849,454, filed May 4, 2001. This declaration establishes invention in this country prior to August 27, 1999, which is the filing date of U.S. Patent No. 6,470,171, issued to Helmick et al.

2.   I conceived of the invention in the U.S. as recited in currently presented claims 1-25 prior to August 27, 1999. My conception of the invention is corroborated by a document entitled "Guidelines for Using Assessor Software" (attached to this Declaration as "Exhibit A") and a document entitled "ERI Update Quarterly Notes for ERI Subscribers" (attached to this Declaration as "Exhibit B").
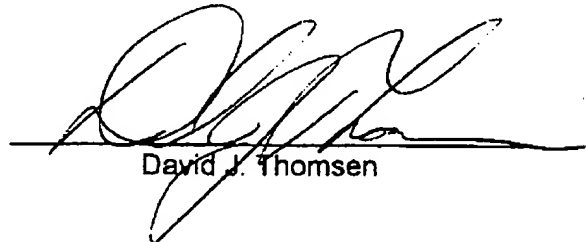
3.   I conceived of a system and method including providing an Internet site allowing for internal human resources ("H.R.") branch office communication, sharing of files, and establishing the basis for employee benefits communications. *See e.g.,* Exhibit A, "Human Resource Administrative Internet."

4.   I conceived of a system and method for remote learning, such as for costs and benefits personnel and professionals. In one embodiment of the invention, a set of Case Study tutorials provide educational materials "for college classrooms, corporate training, and CPE purposes." *See e.g.*, Exhibit B, "Tutorials."

5.   After conceiving of this invention, from prior to August 27, 1999, to May 4, 2001, I pursued it diligently by at least the following acts: developing the software implementation of the invention and participating in the preparation and filing of a provisional patent application on May 9, 2000. On May 4, 2001, I constructively reduced this invention to practice when filing the non-provisional patent application.

6.   I further declare that all statements made herein of my own knowledge are true and that all statements made on information or belief are believed to be true; and further, that the statements are made with the knowledge that the making of willful or false statements or the like is punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code and may jeopardize the validity of any patent issuing from this patent application.

Dated this _2^d_ day of April, 2003.

David J. Thomsen

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EXHIBIT A

Installing Windows Assessors

ERIRA and **ERI's Platform Library** are 16-bit applications and may be installed and run using Windows 3.1, 95, 98 or NT. **ERISA, ERIGA** and **ERIXA** are 32-bit applications, and may be installed and run using Windows 95, 98 or NT.

Using Windows 3.1: Go to **File Manager**, select the 3.5" disk drive (usually A:) and double-click the **install.exe** file. Keep your diskettes as backup.

Using Windows 95, 98 or NT: Go to **Start**, select **Run**, type a:\install.exe and click **OK**. Follow installation instructions. Keep diskettes as backup.

You may also refer to the **Technical Support FAQ** page at *www.erieri.com*.

Downloading Data from the Internet

Current year subscribers may also download **Assessor** dataset updates (for April, July, and October) via a general Internet site. At *www.erieri.com/clients* select **Download ERI Data** and then select the **Assessor** that you wish to update. This use of the Internet is not required, but offered as a 1999 subscription enhancement (data will be sent via the mail as in past years). If you have lost, misplaced, or did not receive your quarterly CD/diskettes, please contact Customer Service at (800) 627-3697. (**ERI's Platform Library** will soon automatically check the Internet for the most recent datasets.)

Running Windows Assessors

Using Windows 3.1: Go to **File Manager**, select the drive and folders of your Assessor (i.e., C:\ERI\ERISAWIN), double-click on the **Assessor** *.exe file (Example: **erisawin.exe**).

Using Windows 95/98/NT: Go to **Start**, select **Programs**, select **Economic Research Institute**, select the **Assessor**, **OR** go to **Windows Explorer**, select the drive and folders of your installed **Assessor** files (i.e., C:\ERI\ERISAWIN), double-click on the **Assessor** *.exe file (Example: **erisawin.exe**).

Using **ERI's Platform Library**: If Assessors are installed, but a *data expired* note appears, use the right mouse button to assign correct directories.

ERI's Platform Library CD-ROM

ERI's Platform Library supports the **Assessor Series** with a compendium of datasets: Maps, *DOT* Position Descriptions, *NCS* and *OES* survey data, Compensation Related Tax and Law Codes, Census Data, SEC Corporate proxies and 10-K reports, and Survey Sources.

MacIntosh Users

Power Mac user must first partition the hard drive and add DOS and/or Windows before accessing ERI Assessor Series software. (Sufficient demand for Apple editions does not yet exist to warrant the cost of programming Apple versions of Assessor Series software.)

Ass ssors for Wind ws95/98/NT (32 bit)

ERISA, ERIGA, and **ERIXA** for Windows require installation to your hard drive and may not be run from the diskettes or CD. Some data used by Assessor programs resides on the **ERIPL** CD (to save hard drive space). Please refer to on-line help menus. Several analyses alternatives are included in the Windows versions that are not included in the DOS editions. Analyses which require access to the **ERIPL** in your CD drive: *Immigration Analyses* for immigration wage comparisons; *OES* survey data reference; *Maximum Reasonable Executive Compensation* tables/analyses; and salary and COL survey *Source* Internet survey links.

Running DOS Assessors

Using DOS: Change the DOS directory to the directory where your **Assessor** files are located (i.e., A:\ or C:\) and type the **Assessor's** short name (**erira, erira i, erisa, eriga, erica**) then press **Enter**. **Please note:** When running a DOS program from diskette, DO NOT remove the diskette from the floppy drive or turn off your PC until you have completely exited the program. In the Year 2000, all **Assessor Series** DOS versions will be sold as a single subscription package via the **Consultants' Assessor**.

Human Resource Administrative Intranet

All **Assessor** and **Reference** subscribers are provided an Internet site using each subscriber's license number allowing for accurate and (in the future) automatic data updating. This site also allows for internal H.R. branch office communication, sharing of files, and establishing the basis for employee benefit communications. Subscribers' Internet addresses are determined by their ERI account #, allowing channeling of specific **Assessor** datasets and free access to participating on-line Internet International and Domestic Salary, COL, Benefit and Auto Cost Survey datasets. Call ERI (800) 627-3697, Extension # 1 for your H.R. Intranet address:
(also found on all renewal offers) *www.erieri.com/clients/?id=0xxxxxxx*

Y2K

Assessor Series software meet Year 2000 compliancy requirements, utilizing the four-digit year format. **Y2K** compliance may be tested in the **Salary Assessor** by trending salary data to a date later than 12/31/1999. Please use this statement as ERI's Certificate of Y2K Compliance.

LAN Usage

Assessor Series subscribers will receive a license diskette for all Year 2000 subscriptions which will assist LAN usage and the quarterly updating of data.

EXHIBIT B

Lic nse Codes

Assessor Series® subscriptions are sold and licensed annually, with access to the databases licensed for 12 months. License codes:
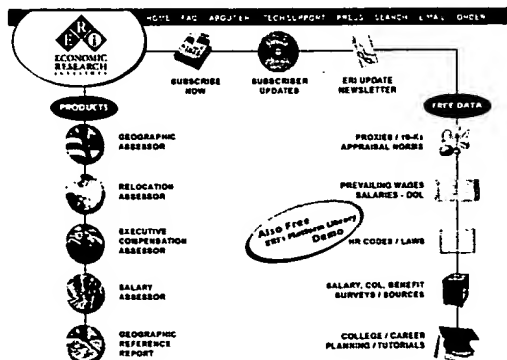
- □ need be entered only once. If you entered a License Code for your Year 2000 subscription in October, you need not enter it again (though a Code may accompany this Update).

- □ identify the subscriber, the **Assessor** and the Internet access code so that updates and large, complementary databases, not found on the CD-ROM, may be accessed. For example: ERI's historical database of 10-Ks and proxies, participant salary survey data extracts, historical appraisal norms, etc.

Assessor Range Percentiles

Range maximums and minimums, as reported by the **Executive C mpensation Assessor** and **Salary Assessor**, refer to actual salaries paid (rather than to salary structures). The January **Assessor**s now show these fields as "Salary Percentiles" with a default range of the 10th and 90th percentiles. Should you wish to alter the percentiles (to display the 20th and 80th percentiles, for example), "click" on the percentile title bar and specify the desired values.

Complimentary Supporting Data

ERI's Platform Library was created with the goal of providing subscribers with supporting, non-copyrighted data that would be useful in your HR/management activities. BLS data, Census data, proxies and 10-Ks, OES survey's Level I and II data, maps, HR Laws and Codes, third-party salary survey data can all be found elsewhere on the Internet, but not with the ease and speed of **ERI's Platform Library**. Now, ERI's Internet Home Page contains much of this same information, along with tutorials to assist the first time subscriber, business student, or analyst. Also available are an SOC crosswalk, a historic record of all OES survey data, Codes and Laws for 210 countries, and an index that links to all available COL and salary survey sources.

Executive Compensation Assessor

ERI researchers and programmers have tied SEC proxy retrievals to compensation analyses differentiated for any selection among over 2,000 industries, 5,800 locations, and 301 executive titles on a *"real time"* basis for as many analyses as our subscribers may require. Because **Assessor** executive pay is now heavily influenced by a *"real time,"* 10,000 company survey (this is the number of publicly traded U.S. corporations for which compensation data is available), executive base salary, incentive, and total compensation values are housed in the **Executive Compensation Assessor**. These positions are no longer found in the **Salary Assessor** (because **ERISA** programming does not tie to this SEC data). With this revision, we also satisfy a long-time request by many subscribers to remove executive positions from day-to-day benchmark analyses.

The Future

Five years ago we made the decision to send out only 3 ½" diskettes, even though 40% of our subscribers had not requested the change from 5 ¼". Since then, our mailings have evolved from floppies to 3 ½" diskettes, to CD-ROMs, to the Internet. DOS has evolved to Win 3.1, to Windows95, and to NT. And like switching from French to Hungarian to Japanese, programming has changed from Fortran to Basic to Pascal to Delphi to Java. **Assessor** programs now access data from diskette, CD-ROM, and if a browser is present, ERI's Redmond Internet file server (where the largest databases reside). We have no *"crystal ball,"* but several trends are apparent:

- □ Traditional salary surveys (mailing out of a questionnaire, keying in returned data, preparation of a report, and sharing with participants only) are disappearing. Interactive, real-time Internet salary surveys already exist and will soon be the norm.

- □ Nothing prevents the moderately prepared employee from possessing either accurate or inaccurate salary information for his/her position, supported by only minutes of personal Internet research. The Internet's Boolean search techniques will answer the most common compensation question: *"What is the salary for a xxx job in yyy City?"*

Tutorials

ERI's Platform Library includes a set of Case Study Tutorials. 24 "storyboards" are under development. (See File I Run Case Studies I Salary Assessor I "Determining What You Should Pay an Employee.") These tutorials are designed for college classrooms, corporate training, and CPE purposes, unlike ERI's Internet *erieri.com/tutorials* which assist the first-time subscriber with "How to Use the Assessors."